Training Individuals in Public Health Law

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Executive Summary
This report provides an overview of training individuals in public health law. This report is designed to broadly outline the issues in order to facilitate discussion at the November 2007 PHLA meeting in Washington, D.C. I found that attorneys and public health practitioners have different approaches to training and practice. Materials and programs that seek to train individuals must be designed to fit within the professional culture of the targeted group. The differences between the two professional cultures can be a barrier to training if not acknowledged in the design of training programs and materials.

In a selected overview of materials and programs available, I found that there is an unmet need for responsive materials and programs. I also found that networking and conference opportunities can play an important role in training that should be explored. I also discuss joint degree programs. The report concludes with a series of future recommendations to facilitate discussion.

Introduction
The Public Health Law Association (PHLA) commissioned a report on building individual practitioner capacities in public health law. PHLA requested that the report focus on means of developing public health competency in lawyers and legal competencies in public health practitioners. The analysis will focus on specific techniques for achieving this objective. For example, there are training programs (the CDC forensic evidence curriculum), collaborative strategies (Indiana’s public health bench book) and organizational constructs (joint clinical/legal prosecution teams) that encourage the development of cross discipline competencies. We [PHLA] will present a synopsis of illustrative legal strategies that have been used to advance a range of public health objectives. The focus will be not only on identifying relevant prototypes, but also on means of sustaining these initiatives over time.

This report is based on a number of assumptions about public health law discussed below.

Public health law is a reemerging field. Law is an integral part of public health practice in the United States, but only recently has there been a renewed interest in public health law as a field in itself. The history of public health is fundamentally a history of collective action in relation to health.1 Collective action implicates the power of the state which, by necessity, implicates the law.2 Law, regardless of its definition, has been and remains a central, if not primary, tool in organizing society and populations to protect them from health threats. While the rationale for public health has changed through the centuries, its practice has remained essentially the same, keeping strong ties to political and legal activity. One of the earliest treatments of the subject is On Airs, Waters, Places from the Hippocratic corpus.3 This text describing environmental indicators of disease also performed a political function: it served as a guidebook for selecting potential colonization sites during Greek expansion. Epidemiology and statistics, the basic tools of public health, were developed as essential tools of...
state administration. The term Statistik or “state-craft” used to describe statistics was invented by a professor of law and politics as a companion course to the study of law. Some of the earliest tools of public health, quarantine and sanitation, relied upon the law for their implementation.

In the United States, public health has been largely a local affair. Historically, local health boards became active in response to epidemics and relied upon the traditional police power of the state for their legal authority. This broad legal authority for public health action, the police power, has its roots in legal concepts of the rule of law that can be traced back to early Greek and Roman jurisprudence. Regulating for public health is an understood part of the sovereign power of the state, and this legal power in the United States remains, generally, with the states. In the United States, this was most clearly articulated in Jacobson v. Massachusetts.

The Civil War and Spanish-American War spurred the creation of federal public health agencies in the United States. During the Civil War, the U.S. Army created systems for improving sanitation in military camps and in southern cities captured during the war. The Army Medical Corps actively worked to eradicate Yellow Fever during the Spanish-American War. The Marine Hospital Service, which later became the Public Health Service, was the first federal public health agency. During the Progressive Era, a growing consumer movement spurred by concerns over food and drugs, led to food and drug regulation at the federal level. With the New Deal and the rise of the federal administrative state, a comprehensive regulatory system began to address many public health problems.

Public health and the law have been intertwined throughout U.S. history. The history of U.S. constitutional law is in many ways a history of public health law. The movement for professionalization in the early 20th century impacted both public health and law, and the growth and development of the current public health infrastructure coincides with the rise of legal realism and developments in administrative law. The law has been instrumental in creating the current public health infrastructure, which has played a key role in public health advances in sanitation, provision of clean water supplies, vaccination, and regulation of food and drug quality.

Individuals and institutions outside the infrastructure of the state have also played an important role in public health law. For instance, private attorneys have used litigation as a part of effective public health strategy, and private foundations have played a key role in building the public health infrastructure. For infectious disease, HIV provides a good example. Attorneys representing individuals with HIV advanced public health in many ways that the state public health infrastructure could not. Through litigation, sometimes against state and local health authorities, attorneys were able to ensure privacy protections for people with HIV and had HIV classified as a disability under the ADA; they also achieved many protections for people living with the disease. The work of these public health lawyers was very much part of configuring the public health response to the disease through both litigation and work that helped support advocacy communities.

In chronic disease and injury, private lawyers have been active for public health. Litigation has played a central role in the control of tobacco, in improving auto safety, and in improving the safety and reliability of a myriad of consumer products. Litigation has also been an effective tool in efforts to stop contamination of the environment. More than litigation, lawyers working for public health organizations are involved in drafting legislation, rule-making processes, and providing legal assistance to advocates seeking to improve public health. From health departments, to community organizations, to the private bar, public health lawyers work in a number of settings.

Discussion

Methods

This report is based on a literature review, an online survey of public health law practitioners, selected interviews, and a review of various Web sites, syllabi, and other materials. The literature review focused on public health law generally. Major books in the field were reviewed along with the symposia issues of journals on public health law. The proceedings of the partnership conferences on public health law sponsored by Centers for Disease Control and Prevention (CDC) and the American Society of Law, Medicine & Ethics (ASLME) were also included in the literature review.

PHLA created a survey that was sent out by email to public health law practitioners. There were approximately 70 responses to the survey, with the majority being attorneys (65.2%) and members of PHLA (65.2%). In addition to the survey, I conducted seven informal interviews with practitioners in state and local government, attorneys in academia and at legal centers, and attorneys working at the federal level in public health. Along with these interviews, this draft report was circulated widely among the PHLA principals with significant feedback from Pat Davidson and Wendy Parmet. In August, the report was reviewed again, and suggestions for revision and improvement were made during a conference call of the working group.
allowing that working group conference call, it was clear that the initial charge from PHLA to write a report that focuses on “means of developing public health competency in lawyers and legal competencies in public health practitioners” was fundamentally problematic in its reliance solely on competency-based training approaches. The problem of competency-based training models and the differences between public health and law are fundamental to understanding the issue of training individuals. To solve this problem, the report takes a more strategic view and organizes the discussion on this distinction.

Assumptions
Training individuals in public health law raises unique problems. First, there is variation in the proper definition of public health itself. Second, there is a significant difference in training public health practitioners and training lawyers in public health law. The training, licensing, and professional practice of public health practitioners and public health lawyers produce two groups of professionals who share almost no common experiences in training or in practice. Based on the interviews, literature reviews, and feedback, it was clear that there is no one technique or set of techniques that will be applicable to both. To effectively train individuals in public health law, programs and materials must be carefully tailored and must, to some degree, make conscious efforts to build bridges between practitioners and attorneys.

Defining Public Health
There is no universally shared definition of public health, and it is not easy to determine what definition of public health is shared in the field of public health law. A common framework, and the one relied upon here, is the one provided by the Institute of Medicine. Public health fulfills “society’s interest in assuring the conditions in which people can be healthy”; is “organized community efforts aimed at the prevention of disease and promotion of health”; and encompasses activities “undertaken within the formal structure of government and the associated efforts of private and voluntary organizations and individuals.” This framework was developed based on the realities of public health practice, and the same elements are present in public health law. For these purposes, this definition suggests that public health law: (1) is both a health determinant and a tool; (2) is focused on populations; and (3) involves more than government action.

In public health there are also overlapping communities of practice. These communities depend upon each other to achieve public health goals, and public health practitioners and lawyers may at various times be members of these different communities. These communities have dynamic relationships, and public health law depends upon all three of these communities. Sometimes these communities work in partnership with each other. At other times they may be adverse parties in litigation. For example, a public health advocacy organization may sue a local or state health department over the enforcement of an ordinance or regulation. At another time, a public health advocacy organization and the state health department may work together to create a particular public health program.

One group of public health law practitioners and lawyers represents a traditional conception of public health. They typically work for federal, state, and local health departments or are otherwise tied to the state public health system. Simply, this community works within the public health law, i.e., the laws that create and authorize the public health agencies. Rather than focusing on one particular public health issue, these individuals are often called upon to understand law and public health across the entire spectrum of public health. Public health lawyers in this community may serve as counsel representing their agencies administrative interests in addition to their public health mission, e.g., human resources, budgeting, open records law compliance, regular litigation, etc.

Another group of practitioners and lawyers works in one particular public health area or provides technical assistance on a set of related legal issues. These practitioners do not necessarily work for state agencies but can also work in independent collaborative centers or with public health advocacy organizations. They often work in response to one narrow public health issue, e.g., tobacco control, substance abuse, food and nutrition, etc. They are often focused on state and local efforts and are strongly linked with either geographic or issue communities, or both. These practitioners and lawyers often work with state and local health agencies but can also work in opposition to those agencies. In some cases, public health lawyers representing public health advocates will be involved in litigation with public health lawyers representing state and local health agencies.

One interviewee provided an example. In this case, his health department was being sued by a local environmental health group over enforcement and interpretation issues around a state environmental regulation. The lawyer representing the health department and the lawyer representing the public health advocacy group were colleagues and public health lawyers. While they were adverse to each other in litigation, both were advancing public health.
A final group of practitioners and lawyers works in academic settings in schools of public health and schools of law. These individuals are focused on the interaction of law and public health. Working in a variety of areas, they examine the manner in which the law structures social systems and individual behavior. They also explore the use of legal tools to improve population health. These practitioners and scholars develop the intellectual framework for public health law.

**Training and Practice Differences**

Public health professionals receive training in professional programs that are competency-based in their approach. The master’s degree in public health (M.P.H.) requires training in an established number of fields: biostatistics, epidemiology, environmental health science, health services administration, and social and behavioral sciences. Within these core areas, students are assessed against a measurable set of competencies. Competency-based training is the accepted model for training in the field of public health and is widely applied in medicine, health administration, and public health. Competency embodies “a cluster of related knowledge, skills, and attitudes,” and the model emphasizes actionable competencies in a job, outcomes, and evaluation. Rather than process, competency-based education focuses on the end result: “competency-based education is primarily concerned with ensuring that learners can perform the activities required in their daily role. The emphasis is placed on the achievement of outcomes, not on the process.” Legal education instead focuses on process.

Legal education and legal practice is based primarily on learning a particular skill or process: legal analysis. Legal education transforms students from a diverse set of backgrounds into a group that learns “how to think like a lawyer” within the first year of legal training. Lawyers are trained in a set of core subjects that are taught in the first year of study. Using a case-based method, lawyers are instructed in the application of legal analysis to any number of varying factual and legal situations. Lawyers are also trained in the basics of legal research enabling them to find the applicable law for any situation. This training ensures lawyers can work in any number of legal situations, and, in theory, any lawyer can effectively practice in any field of law. This skill is the foundation of legal training and one of the key skills in being an effective public health lawyer. It is the ability to understand the legal doctrine, to manage the competing perspectives, to understand the legal and public health consequences of legal action, and to respond appropriately to a highly particularized set of facts. Competency-based training is foreign to legal education and practice.

The difference between legal training and public health training is perhaps the most critical but least emphasized in the current literature. The foundational skill for applied public health law is a legal process: to be able to analyze the facts and the context of a situation and to apply the law. Formal legal education is fundamental to learning this process and producing the appropriate outcome. Without formal legal education, individuals would be less likely to achieve the desired outcome. The difference between public health practice and legal practice suggests that training public health practitioners in the law will have an inherent limitation. While public health law may involve, and may require, the active collaboration of lawyers and non-lawyers, fundamentally, lawyers and formal legal training remain an irreducible component of effective public health legal practice. This is a working assumption for this report.

**Public Health Law for Practitioners and Attorneys**

There has been a significant amount of work done in creating materials and programs to train public health practitioners in public health law. One of the most comprehensive explications of public health law in a competency format is from the Center for Law and the Public’s Health, whose *Core Legal Competencies for Public Health Professionals (Core Legal Competencies)* provides an excellent set of competencies. The *Core Legal Competencies* outlines the knowledge necessary to understand public health law while implicitly acknowledging the distinction between the public health practitioner and the public health lawyer. The competencies are focused on what the public health practitioner needs to know in public health law: (1) the basics of the legal system; (2) the relationship of public health to law; and (3) the circumstances that require accessing legal services. Because the core competencies for public health practitioners have been widely explicated, they are not discussed here. These core competencies have provided the foundation for a number of training materials.

Traditional legal education is the foundational requirement for training lawyers in public health law. While legal education provides the basics, there are several particular doctrinal areas that are key for the effective practice of public health law and that should be emphasized; they are listed in Appendix C. Many of these doctrinal areas are taken up in courses on public health law or stand as courses on their own.
tion to these specific legal doctrines, there are important particular skills that are difficult to teach during law school as they are not often a core component of legal education. Interviews with practitioners and survey results revealed the following to be essential to practice: (1) drafting legislation and regulations; (2) translating legal doctrine for public health practitioners; (3) managing complex litigation, especially defensive litigation; (4) understanding and navigating the politics of state and local government; (5) lobbying and community organizing; (6) fundraising; and (7) procurement. These critical skills are rarely mentioned in the literature or available materials. Procurement (contracting) is particularly interesting as it was ranked highly as a need in public health law but was “cited by slightly less than half the respondents” when asked which doctrinal areas are important for public health law. In addition to these legal skills, public health lawyers should be trained in basic areas of public health. PHLA survey respondents indicated that “public health intervention, methods and techniques” were important, including ethics, epidemiology, surveillance, and evaluation.

Lawyers reported in interviews that a central component of their work is translating legal concepts into terms understood by public health practitioners. This translation function takes place as part of the attorney-client relationship for government lawyers and takes place as part of technical assistance for collaborative projects and other centers. Interviews suggested that this translation function can be a key informal means of training public health practitioners in public health law.

Current Training Opportunities
The public health law landscape is varied. There are materials, courses, and organizations that can have a role in training individuals. I did a general assessment of this landscape and found that there are no perfect materials, courses, or organizations for individual training. Many of the materials available were not designed specifically for training purposes, and there are gaps to be filled.

BENCH BOOKS AND MODEL CODES
There is a set of bench books that can be used to train practitioners in the core competencies of public health law. A bench book is a summary of procedure and substantive law that is used by a court during proceedings. The public health bench books are oriented toward public health practitioners for use in judicial hearings, and they outline the issues in the field and tend to focus on public health emergencies. There are a number of public health law bench books. The Indiana bench book, for example, was the first published one, created at one of the CDC’s Collaborating Centers with support from the CDC. Now bench books are based entirely or in part on the Indiana bench book although I have not found studies evaluating their effectiveness or adoption.

There is also a manual that is designed specifically for lawyers: the Reference Manual on Scientific Evidence by the Federal Judicial Center. This manual is designed to assist judges in handling expert witnesses and scientific evidence. While not designed primarily for public health, it does contain a guide to epide-

mology that provides a highly detailed explanation in a framework relevant to legal proceedings and is targeted to legal practice.

Model codes may also be a tool to train individuals in public health law. The Model State Public Health Act (Model Act) could be used for competency training for public health practitioners. The Model Act was created by the Turning Point Program Public Health Statute Modernization Collaborative. It was designed purely as a public health intervention, not as training for public health law or to reform the field of public health law. The Model Act was intended to be an assessment tool to guide states in updating and clarifying their own public health laws. Contrasting the Model Act with the Model Penal Code provides an opportunity to further explore the distinctions between public health practice and public health legal practice by exploring how the two model codes serve two separate purposes.

The Model Penal Code (MPC) was developed by the American Law Institute in the 1950s and 1960s with the final code published in 1962. The MPC was funded by the Rockefeller Foundation and was designed to reform criminal law across the United States. The MPC was written by lawyers through the American Law Institute, a highly respected and influential center for law reform. The MPC was born in the legal community and produced dynamic scholarship in the area. It provided necessary reforms of doctrines of criminal intent, redefined many crimes involving sexual activity, and conceptualized new approaches to punishment. The commentaries that accompany the MPC have also been, and remain, very influential.

The Public Health Statute Modernization Collaborative, in comparison, was not rooted in the law in the same way and was never intended to be so. The Model Act was not written for the same purposes as the MPC. The Model Act does not have commentaries or case analysis supporting each provision. It was not designed to reform the field of public health law.
It was designed purely as public health intervention to reform public health laws. The differences between the two highlight differences in training and practice and provide another example of the importance of separating approaches to training for public health practitioners and public health lawyers.

CONTINUING EDUCATION PROGRAMS

Public health practitioners can receive continuing education and training through state and local health departments, federal public health agencies, and organizations such as the American Public Health Association and the Association of State and Territorial Health Officials (ASTHO). The American Bar Association (ABA) offers continuing legal education (CLE) courses in a variety of subjects for lawyers and usually focuses solely on a narrow topic. Local bar associations also offer continuing legal education.

The number of public health law subjects offered in continuing education programs I reviewed is limited and has focused recently on emergency preparedness or other current topics. A recent search of ABA opportunities in public health found courses on HIPAA, evidence review, XDR-TB, lead paint poisoning litigation, and food safety. However, continuing education opportunities for lawyers may be limited by the state-by-state requirements. Not all states require continuing legal education, and in states where there is no requirement, there may be no incentive to take them. Currently, 40 states require CLE, 10 states do not.

JOINT J.D./M.P.H. PROGRAMS

Joint J.D./M.P.H. programs are a means for training both public health lawyers and public health practitioners. Not only do these programs impart the necessary public health training, but they also give students the basic foundation in legal analysis that will be important. There are at least 25 dual degree programs in the United States. The number of officially recognized and coordinated programs focusing on public health is slightly smaller. A partial list is included in Appendix A.

Many of these programs allow for areas of concentration within the M.P.H. component. Separate application to the J.D. program and to the M.P.H. program is usually required with many of the M.P.H. programs accepting the LSAT. The majority of programs have clinical requirements and all the programs require more than the traditional three years required for a J.D. The only courses required across every dual degree program I surveyed are basic epidemiology, biostatistics, and environmental health. Course requirements tended to be provided for the M.P.H. component with fewer J.D. course requirements. Programs that listed requirements in the law school, public health law, administrative law, and environmental law were the most common. Many of the these programs demonstrated an overlap with health law or had a strong focus on health law. These joint degree programs also have the potential to train public health practitioners and lawyers in specific public health areas. For example, public health law students interested in food and nutrition would need a basic knowledge set that included topics such as nutrition, dietary behavior, nutrition interventions, etc. This in turn may require certain legal knowledge, such as food and drug law, understanding federally reimbursed meal programs, and agriculture law, etc. — all of which can be covered in a J.D./M.P.H. program.

Courses in public health law, often a key part of J.D./M.P.H. programs, can also be offered at universities without formal J.D./M.P.H. programs. Based on a review of syllabi available through Professor Ed Richards and through the Center for Law and the Public’s Health, I found most public health law courses are survey courses that cover many public health topics with a focus on police power and constitutional issues. In addition to general public health classes, some schools offer courses in specialized topics in the field.

There are several barriers to creating comprehensive public health law programs in law schools outside of a joint degree program: the nature of the legal curriculum, the need to teach many of the subjects in the legal core curriculum, and the relative shortage of faculty and scholarship in the area. Law school faculty are central to changing the law school curriculum and supporting joint degree programs. Changes to curriculum can be supported through trainings, workshops, and robust legal scholarship in the area that are all available to law faculty. These programs will depend upon strong scholarly work, journals, and materials to succeed. Scholarly work using methodologies and approaches that can be applied to legal problems and legal theory are often more successful: "feminism offered practical tools to understand the complexities of domestic violence and rape law...advocates of law and economics engaged in scholarship that was able to apply fairly broad economic methodologies to the general theory of tort law." These programs are also strengthened by the availability of casebooks and other teaching materials, government and foundation support, and a wider interest and need for lawyers trained in the discipline. Students may also be able to pursue training in advanced law programs, e.g., L.L.M. and doctoral programs in public health. A search, however, revealed no L.L.M. programs concentrating on public health law. I also noted that many of
the public health lawyers interviewed also teach public health law locally as adjunct law professors.

BOOKS, TREATISES, AND JOURNALS
There are several books available that can be used to train individuals in public health law. Of the several books available, only one is designed specifically as a case book for use in law schools.55 The most frequently cited books are the following: Frank P. Grad’s *The Public Health Law Manual; Law in Public Health Practice* edited by Richard Goodman; Lawrence O. Gostin’s *Public Health Law: Power, Duty, Restraint*; Tom Christoffel and Stephen Teret’s, *Protecting the Public: Legal Issues in Injury Prevention*; and *Public Health Law* by Ken Wing, Wendy Mariner, George Annas, and Daniel Strouse. Gostin’s *Public Health Law* is widely used in education but is usually supplemented with cases when used in law school.

There are many journals that include public health law issues, but few are devoted exclusively to the topic. For example, the *Journal of Law, Medicine & Ethics*, published by ASLME, has become a primary journal covering public health law. ASLME includes public health as part of its mission and puts out symposia issues on public health law generally as well as on particular public health problems. The *Journal of Law, Medicine & Ethics* also publishes independent public health law articles and publishes the proceedings of the CDC Public Health Partnership Conferences. Public health law pieces are also published in the *Journal of the American Public Health Association*, *Journal of Preventive Medicine*, and *New England Journal of Medicine*. Publishing legal works in public health journals can be difficult because of the differences in legal and public health academic journals.56

*Public Health Law and Policy* is a journal published through the Social Science Research Network (SSRN), which enables authors to submit working papers before publication, receive comments on their papers, and network around shared interests. *Public Health Law and Policy* is published via email to subscribers with abstracts and links to papers. It covers both legal and public health academic journals.

Public health law and policy research is also published in *Public Health and the Public’s Health: Power, Duty, Restraint*.55

Lack of resources prepared for lawyers was cited in interviews as a barrier to learning public health law, forcing public health lawyers to “learn on the job.” I found no traditional legal materials for practicing public health lawyers. This would include treatises and practice guides that are updated and state-specific with state-specific case citations; it would also include case citations and commentary. Interviewees indicated that there is a real need for these very traditional legal resources focusing on public health law.

CONFERENCES, NETWORKING, AND COLLABORATIVE PROJECTS
Across the interviews, it was clear that lawyers rely heavily upon networks of colleagues, collaborative centers, conferences, and materials they have gathered personally. The PHLA survey confirms that personal and professional networks and conferences can be key for individual training: “52.2% of the [PHLA survey] respondents ranked a national annual conference as essential.”55 The most often cited conference opportunity was the Partnership Conference on Public Health Law. This popular conference held in Atlanta from 2002-2006 was sponsored by the CDC and ASLME. The *Partnership Conference* was not held in 2007, and I could not determine if the CDC will hold the conference again in the future.

Many public health practitioners and lawyers work in various collaborative projects that provide networking and training opportunities. These projects vary in their funding, organization, missions, and style. Some are independent non-profits; some are part of clinical projects at law schools or schools of public health; some are state funded; some are all of these and more. These collaborative projects do much of the scholarly work in public health law, develop materials, conduct analyses, organize conferences, and provide technical assistance in public health law. Public Health Law and Policy, the Center for Law and the Public’s Health, the Public Health Advocacy Institute, and the Tobacco Control Legal Consortium were often mentioned by interviewees and provide good examples of this type of collaborative project or organization. These are not the only organizations doing work in public health law, and this is not an exhaustive list. Rather, they are examples of organizations that focus explicitly on public health law and address a variety of public health topics. Many of these organizations began as part of the tobacco control movement.

These projects often provide an invaluable service to their state, local and national communities. These programs are all tightly integrated into their local communities and state public health infrastructures.59 While often funded to provide a certain kind of technical assistance, they are also often called upon to provide technical assistance beyond their mandate. These collaborative organizations draft legislation, draft regulations, provide litigation assistance to health departments, provide technical assistance to community advocates and activists, and more. Often these
collaborative projects can influence the legislature in ways that are politically impossible for public health departments. Some centers have helped mediate disputes with state and local public health counsel, and often these centers can assist communities in navigating the public health administrative structure.

These collaborative projects represent a dynamic network of public health lawyers with an enormous amount of shared expertise. These projects understand state and local public health, their communities, and rely upon their personal networks to train their attorneys and their public health workers. While this is a vibrant network, it is particularly fragile and faces a constant need to find funding and recruit talent.

Funding
Funding programs and materials to train individuals in public health law will likely be difficult. Public health law projects are subject to incredible funding pressures. One type of pressure is common to all of public health: public health programs are often consistently under-funded, or funding is cut when the public health focus changes. This is a symptom of issue-driven rather than comprehensive approaches to public health financing and is not unique to public health law. One interview subject described public health law as suffering from a “silo effect” where funding is directed to one narrow public health topic or area rather than to building a comprehensive infrastructure in public health law. The second type of pressure unique to public health law, is, according to one of the interviewees, that “no one wants to pay for lawyers; they aren’t politically popular.”

Projects and materials are funded through foundations, community organizations, and governments. This support tends to focus on particular public health problems rather than on larger infrastructural issues. I found that many public health lawyers and collaborative projects work across a spectrum of legal and public health issues. Yet, these funding sources are usually focused on discrete projects and public health topics. This suggests that funding targeted toward one isolated public health law problem may lead to unnecessary duplication of basic research and skills. Funding training in public health law generally may reduce the costs in projects funding one public health law topic by ensuring that there is a strong foundation of training to support public health law work.

Foundations have been key to funding public health in the United States for nearly a century, and the growth and development of modern U.S. public health is in many ways a result of strong foundation support. Foundations remain a key means of support for many collaborative public health law projects. Like many aspects of health care and public health in the United States, public health law is also funded by organizations based on geographic interest or health interest. These organizations tend to fund within their particular area. Government continues to fund public health law subject to the same financial and interest constraints as many other government agencies. The CDC Public Health Law Program, for example, has been funding collaborative centers in public health law since 2000. Some collaborative projects have explored funding through a fee-for-service model, but this has proven unworkable. Other projects have also been funded through litigation settlements, but this type of funding is variable and uncommon.

Conclusion
Training individuals in public health law is complicated by the significant differences between public health and law. Understanding this difference is the foundation of this report and provides an effective paradigm to move forward in developing effective training materials and programs. Joint degree programs and existing interdisciplinary project networks are likely the key means for training individuals in public health law. The training potential of interdisciplinary projects and centers has not been thoroughly explored.

While there are many programs and materials available, none that I reviewed were expressly targeted to one audience or the other. Materials were either not designed for training or were not designed for an interdisciplinary audience. Public health lawyers have fewer training materials available to them, and there was an expressed need for practice materials and treatises designed specifically for practicing public health lawyers.

Recommendations
Recommendations for Training Public Health Practitioners
1. Include courses in the core public health law competencies; see Appendix B, in formal public health training programs.
2. Create continuing education programs that cover public health law generally in addition to programs related to particular public interest topics.
3. Train public health officials on the U.S. legal system with particular focus on its adversarial orientation, reliance on common law, and federalist system.
4. PHLA should support Trust for Americas Health, Association of State and Territorial Health Officials and other organizations working on public
health leadership initiatives and trainings as a voice for public health law.

**Recommendations for Training Attorneys**  
1. Create training programs targeting attorneys that are affordable for government or public interest attorneys.
2. Support a law review devoted to public health law.
3. Create practice guides for lawyers modeled on traditional legal practice and procedure manuals. Some materials must be state-specific, have sufficient legal detail, include commentary and cases, and be kept current.
4. PHLA should strengthen itself as a membership organization to provide much-needed networking and conference opportunities in public health law.
5. Create a model syllabus for public health law courses.

**Recommendations for Training Attorneys and Public Health Practitioners**  
1. Recognize the differences in training public health practitioners and public health lawyers and tailor training programs accordingly.
2. Support an interdisciplinary journal in public health law.
4. Support public health lawyers in their role explaining and clarifying the law for public health practitioners.
5. Support the existing infrastructure of collaborative centers. The potential of these networks to train individuals is untapped.
6. PHLA should host a national public health law conference.
7. PHLA should strengthen itself as a membership organization independent of public health agencies and organizations. There is a need for an organization that cuts across all public health communities.
8. Rationalize and coordinate funding for public health law.

**Appendix A: Selected J.D./M.P.H. Programs**  
University of Alabama at Birmingham and Cumberland Law School of Stamford University  
Boston University School of Law  
University at Buffalo Law School  
University of California at Los Angeles (UCLA) School of Law  
Case Western Reserve University School of Law  
University of Connecticut School of Law  
Emory University School of Law  
George Washington University Law School  
Georgetown University Law Center  
Harvard Law School  
University of Houston Law Center  
Chicago-Kent College of Law  
Indiana University School of Law — Indianapolis  
University of Maryland School of Law  
University of Miami School of Law  
University of Michigan  
University of Minnesota Law School  
Northeastern University School of Law  
University of Oklahoma  
University of Pennsylvania Law School  
University of Pittsburgh School of Law  
Saint Louis University School of Law  
Tulane University Law School  
University of Virginia School of Law  
University of Washington School of Law

**Appendix B: Public Health Law — Relevant Subject Areas for Attorneys**

- Administrative Law  
- Bioethics  
- Civil Procedure  
- Contracts/Procurement  
- Constitutional Law  
- Criminal Law  
- Evidence  
- Health Law (Finance/Insurance)  
- HIPAA  
- International Law  
- Legislation  
- Professional Responsibility  
- Property  
- State and Local Government  
- Tax  
- Tort

**References**

2. Id.
3. Id.
4. Id.
5. See, e.g., id.


13. See, e.g., B. Z. Tamahana, Law as a Means to an End: Threat to the Rule of Law (Cambridge: Cambridge University Press, 2006): at 41-77 (discussing legal realism); see Duffy, supra note 7 (discussing professionalization of public health).

14. Id. (Duffy); see Porter, supra note 1; Hilts, supra note 11.


19. I am using the term “public health practitioner” to indicate individuals without law degrees for convenience purposes. Public health lawyers are, of course, public health practitioners.


22. Id.

23. Id., at 2.6.


25. See, e.g., id., at 22-30.


28. That core usually consists of property, tort, contracts, constitutional law, criminal law, and civil procedure. In the second and third years, students are usually free to choose from a range of electives that are based primarily on the interests and research areas of the faculty. The core curriculum and elective offerings are closely tied to the bar examinations and licensing requirements for each jurisdiction. See American Bar Association, Section of Legal Education and Admissions to the Bar, “Standards and Rules of Procedure for Approval of Law Schools,” (2006). See <http://www.abanet.org/legaled/standards/standards.html> for a discussion. Jurisdictions also require lawyers to pass a nationally uniform examination on professional responsibility, the MPRE, and to pass a final bar examination based on a nationally uniform examination on the core subjects followed by an essay examination on the application of state law. See National Conference of Bar Examiners & American Bar Association Section of Legal Education and Admissions to the Bar, “Comprehensive Guide to Bar Admission Requirements 2007,” (2007). See <http://www.ncbex.org/fileadmin/mediafiles/downloads/Comp_Guide/CompGuide.pdf> for a full discussion.


31. Id., at 3-6 (The document specifically refrains from detailing proficiency for each professional category, at 3, and a review of the competencies reveals they can easily be sorted into the three areas of knowledge discussed here. The competencies that require legal proficiency that comes with a law degree are tasked to management and to health officials, e.g., "weighs options and applies, when necessary, processes to address public health problems through criminal charges for specific behaviors and civil suits for damages," at 4).

32. There has been further work on competencies in legal preparedness. See generally R. A. Goodman et al., “Law and Public Health at CDC,” Morbidity and Mortality Weekly Report 55, Supplement 2 (December 22, 2006): 29-33; and for a discussion of this concept, see A. Moulton et al., “What is Public Health Legal Preparedness?” Journal of Law, Medicine & Ethics 31, no. 4 (2003): 672-683. Legal preparedness is a more narrow concept and application of public health law that has its roots in emergency preparedness. For a discussion of the private bar in public health emergency preparedness and a history of the term, see for example, M. des Vignes-Kendrick et al., “The Private Bar: A Force for Public Health,” Journal of Law, Medicine & Ethics 33, no. 4, Supplement (2005): 77-78. Legal preparedness is not discussed in this report as the report focuses on public health law generally.

33. 97.2% of PHLA survey respondents selected state and local governance; 94.4% administrative law; 91.7% individual liberties; and 88.8% police power/state authority. See Davidson, supra note 18, at 3.


35. There was an emphasis here on understanding both trial and appellate practice.

36. See Davidson, supra note 18, at 3.

37. Id., at 3.


39. Center for Public Health Law Partnerships at the University of Louisville.


42. The manual is available on Westlaw, database identifier RMSCEVID.


50. The Law School Admission Test (LSAT) is an examination used by law schools as a measure of reading and reasoning skills. It is administered by the Law School Admission Council (LSAC).


52. Id.

53. Id.

54. Id.


56. The differences between public health journals and law reviews are not discussed here. Law reviews are unique in academic publishing and a full discussion is beyond the scope of this report.

57. There has been a relative explosion of discussion on law-related blogs and Web sites on new ways to disseminate legal scholarship. There is a growing interest in legal blogs and other digital formats like SSRN as a means to disseminate work outside of the traditional law review process.

58. See Davidson, supra note 18, at 2.

59. Local colleagues were ranked as essential sources by 54.3% of respondents. See also id.

60. Based on interviews and a review of all of supra note 17.